



May 2019

# PRIVATE STUDENT LOANS

Clarification from  
CFPB Could Help  
Ensure More  
Consistent  
Opportunities and  
Treatment for  
Borrowers

# GAO Highlights

Highlights of [GAO-19-430](#), a report to congressional committees

## Why GAO Did This Study

The Economic Growth, Regulatory Relief, and Consumer Protection Act enabled lenders to offer a rehabilitation program to private student loan borrowers who have a reported default on their credit report. The lender may remove the reported default from credit reports if the borrower meets certain conditions. Congress included a provision in statute for GAO to review the implementation and effects of these programs.

This report examines (1) the factors affecting financial institutions' participation in private student loan rehabilitation programs, (2) the risks the programs may pose to financial institutions, and (3) the effects the programs may have on student loan borrowers' access to credit. GAO reviewed applicable statutes and agency guidance. GAO also asked a credit scoring firm to simulate the effect on borrowers' credit scores of removing student loan defaults. GAO also interviewed representatives of regulators, some of the largest private student loan lenders, other credit providers, credit bureaus, credit scoring firms, and industry and consumer advocacy organizations.

## What GAO Recommends

GAO is making two recommendations, including that CFPB provide written clarification to nonbank private student loan lenders on their authority to offer private student loan rehabilitation programs. CFPB does not plan to take action on this recommendation and stated that it was premature to take action on the second recommendation. GAO maintains that both recommendations are valid, as discussed in this report.

View [GAO-19-430](#). For more information, contact Alicia Puente Cackley at (202) 512-8678 or [cackleya@gao.gov](mailto:cackleya@gao.gov).

May 2019

## PRIVATE STUDENT LOANS

### Clarification from CFPB Could Help Ensure More Consistent Opportunities and Treatment for Borrowers

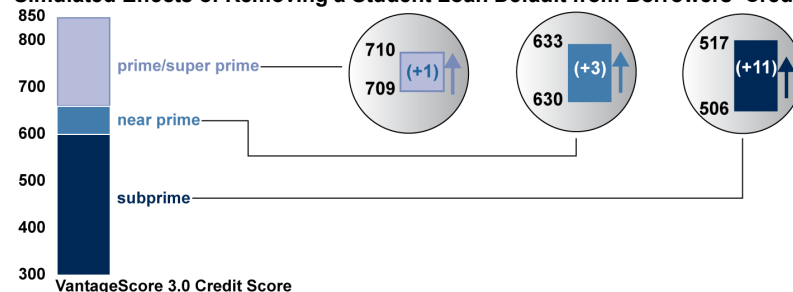
## What GAO Found

The five largest banks that provide private student loans—student loans that are not guaranteed by the federal government—told GAO that they do not offer private student loan rehabilitation programs because few private student loan borrowers are in default, and because they already offer existing repayment programs to assist distressed borrowers. (Loan rehabilitation programs described in the Economic Growth, Regulatory Relief, and Consumer Protection Act (the Act) enable financial institutions to remove reported defaults from credit reports after borrowers make a number of consecutive, on-time payments.) Some nonbank private student loan lenders offer rehabilitation programs, but others do not, because they believe the Act does not authorize them to do so. Clarification of this matter by the Consumer Financial Protection Bureau (CFPB)—which oversees credit reporting and nonbank lenders—could enable more borrowers to participate in these programs or ensure that only eligible entities offer them.

Private student loan rehabilitation programs are expected to pose minimal additional risks to financial institutions. Private student loans compose a small portion of most banks' portfolios and have consistently low default rates. Banks mitigate credit risks by requiring cosigners for almost all private student loans. Rehabilitation programs are also unlikely to affect financial institutions' ability to make sound lending decisions, in part because the programs leave some derogatory credit information—such as delinquencies leading to the default—in the credit reports.

Borrowers completing private student loan rehabilitation programs would likely experience minimal improvement in their access to credit. Removing a student loan default from a credit profile would increase the borrower's credit score by only about 8 points, on average, according to a simulation that a credit scoring firm conducted for GAO. The effect of removing the default was greater for borrowers with lower credit scores and smaller for borrowers with higher credit scores (see figure). Reasons that removing a student loan default could have little effect on a credit score include that the delinquencies leading to that default—which also negatively affect credit scores—remain in the credit report and borrowers in default may already have poor credit.

**Simulated Effects of Removing a Student Loan Default from Borrowers' Credit Reports**



Source: VantageScore Solutions, LLC. | GAO-19-430

Note: A VantageScore 3.0 credit score models a borrower's credit risk based on elements such as payment history and amounts owed on credit accounts. The scores calculated represent a continuum of credit risk from subprime (highest risk) to super prime (lowest risk).

---

# Contents

---

Letter		1
	Background	4
	No Banks Are Offering Rehabilitation Programs, and Authority Is Unclear for Other Lenders	11
	Private Student Loan Rehabilitation Programs Would Likely Pose Minimal Risks to Financial Institutions	17
	Private Student Loan Rehabilitation Programs Would Likely Result in Minimal Improvements in Borrowers' Access to Credit	20
	Conclusions	25
	Recommendations for Executive Action	26
	Agency Comments and Our Evaluation	26
Appendix I	Objectives, Scope, and Methodology	30
Appendix II	Comments from the Consumer Financial Protection Bureau	38
Appendix III	Comments from the National Credit Union Administration	41
Appendix IV	GAO Contact and Staff Acknowledgments	42
Table		
	Table 1: Results of VantageScore Solutions, LLC, Simulation of the Effect on a VantageScore 3.0 Credit Score of Adding a Student Loan Delinquency to and Removing a Student Loan Default from Borrowers' Credit Profiles	34
Figures		
	Figure 1: Student Loan Market, September 2018	5
	Figure 2: Example of Credit Reporting for a Borrower in a Private Student Loan Rehabilitation Program	8

Figure 3: Example of Simulated Effects on a Borrower's  
VantageScore 3.0 Credit Score of Removing a Student  
Loan Default

Abbreviations

the Act	Economic Growth, Regulatory Relief, and Consumer Protection Act
CFPB	Consumer Financial Protection Bureau
CRA	consumer reporting agency
FCRA	Fair Credit Reporting Act
FDIC	Federal Deposit Insurance Corporation
Federal Reserve	Board of Governors of the Federal Reserve System
FFIEC	Federal Financial Institutions Examination Council
FICO	Fair Isaac Corporation
NCUA	National Credit Union Administration
nonbank	nonbank financial institution
nonbank state lender	nonprofit state-affiliated lender
OCC	Office of the Comptroller of the Currency
VantageScore	VantageScore Solutions, LLC

This is a work of the U.S. government and is not subject to copyright protection in the United States. The published product may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.



May 24, 2019

## Congressional Committees

As of September 2018, nearly \$120 billion in private student loan balances (that is, all student loans that are not guaranteed by the federal government) was outstanding in the United States.<sup>1</sup> Private student loans can supplement federal student loans and other financial aid and help pay for tuition, fees, books, and living expenses.<sup>2</sup> However, unlike federal student loans, private student loan lenders may not offer as many flexible relief options during periods of financial hardship. Borrowers who default on any type of student loan can face serious consequences, including damaged credit ratings and difficulty obtaining affordable credit in the future.

After the passage of legislation in 1992, the Department of Education established a loan rehabilitation option for federal student loans in default (generally those 270 days past due).<sup>3</sup> Under this option, borrowers have the default removed from their credit reports after making nine on-time monthly payments within 10 months. To facilitate private student loan borrowers' access to comparable programs, in 2018 Congress passed the Economic Growth, Regulatory Relief, and Consumer Protection Act (the Act), which amended the Fair Credit Reporting Act (FCRA) to allow

---

<sup>1</sup>Throughout this report, we use the term "private student loans" to mean the same as "private education loans." A private education loan is defined as, among other requirements, a loan provided by a private educational lender that "is issued expressly for postsecondary educational expenses to a borrower...." 15 U.S.C. § 1650(a)(8)(A)(ii). This estimate is from MeasureOne, a company that compiles data from 17 student loan lenders and holders that represented about 62 percent of outstanding U.S. private student loan balances as of September 30, 2018. MeasureOne, *The MeasureOne Private Student Loan Report* (San Francisco, Calif.: Dec. 20, 2018).

<sup>2</sup>Private student loans can be in-school, refinancing, or consolidation loans. In-school loans are underwritten to fund a student's academic year needs. Refinancing loans are loans in which the lender pays off existing federal or private student loans and replaces them with a new private student loan with a lower interest rate. Consolidation loans are like refinancing loans and are used to pay off the balances on other loans. The Consumer Financial Protection Bureau generally recommends that student loan borrowers exhaust the availability of federal student loans before taking out private student loans because federal student loans usually carry more flexible protections in the case of hardship and offer fixed interest rates.

<sup>3</sup>34 C.F.R. § 682.405; 20 U.S.C. § 1085(l); 34 C.F.R. §§ 682.200(b) and 685.102(b).

---

financial institutions to offer rehabilitation programs.<sup>4</sup> The Act does not require financial institutions to offer a rehabilitation program to their private student loan borrowers, but financial institutions that are overseen by one of the federal banking regulators must obtain approval of their program's terms and conditions from their regulator before offering a program.<sup>5</sup> Rehabilitation programs provide student loan borrowers who have previously defaulted on their loan an opportunity to demonstrate to their lender a renewed willingness and ability to repay the loan by making a certain number of consecutive, on-time monthly payments. After completing these payments, borrowers may request that their financial institutions remove the previously reported default on their student loans from their credit reports.<sup>6</sup>

Section 602 of the Act includes a provision for us to review the implementation and effects of private student loan rehabilitation programs. This report examines (1) the factors affecting financial institutions' participation in these programs, (2) the risks that these programs may pose to financial institutions, and (3) the effects that these programs may have on student loan borrowers' access to future credit.

To accomplish these objectives, we reviewed the statements that the Board of Governors of the Federal Reserve System (Federal Reserve), Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) issued to their regulated entities regarding private student loan rehabilitation programs. We reviewed the Consumer Financial Protection Bureau's (CFPB) and National Credit

---

<sup>4</sup>Pub. L. No. 115-174, § 602, 132 Stat.1366 (2018), amends the Fair Credit Reporting Act, § 623(a)(1) (codified as 15 U.S.C. § 1681s-2(a)(1)). "Financial institution" is defined by FCRA to include a state or national bank, state or federal savings and loan association, a mutual savings bank, a state or federal credit union, or any other person that, directly or indirectly, holds a transaction account belonging to a consumer. 15 U.S.C. § 1681a(t). In this report we refer to private student loan rehabilitation programs, or rehabilitation programs, to mean those explicitly described in the Economic Growth, Regulatory Relief, and Consumer Protection Act as well as similar programs that other private student loan lenders may offer allowing borrowers who have defaulted on a student loan to request that the default be removed from their credit report after making a certain number of consecutive, on-time payments.

<sup>5</sup>The federal banking regulators are the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency. 12 U.S.C. § 1813(z).

<sup>6</sup>Borrowers may obtain benefits with respect to rehabilitating a loan under the Act only once per loan.

---

Union Administration's (NCUA) legal authorities concerning rehabilitation programs. We also asked VantageScore Solutions, LLC (VantageScore)—a credit scoring firm—to conduct an analysis simulating the effects of derogatory credit marks on student loan borrowers' VantageScore 3.0 credit score.

In addition, we interviewed representatives from a nongeneralizable sample of 15 private student loan lenders: five banks and two credit unions with among the largest private student loan portfolios and eight nonbank financial institutions (nonbank). The eight nonbanks included three for-profit nonbank lenders and five nonprofit state-affiliated lenders (nonbank state lenders).<sup>7</sup> We identified the for-profit nonbank lenders and nonbank state lenders through discussions with federal agency officials and a trade association for nonbank state lenders, as well as documentary sources with data on nonbank private student loan lenders. Because this sample is nongeneralizable, our results cannot be generalized to all private student loan lenders.

We also interviewed representatives from a nongeneralizable sample of seven credit providers (of mortgages, automobile loans, and credit cards) about potential risks and effects of private student loan rehabilitation programs.<sup>8</sup> We selected these credit providers based on their size and, to the extent applicable, their federal regulator to include a mix of entities overseen by different regulators. Because this sample is nongeneralizable, our results cannot be generalized to all credit providers. We interviewed officials from FDIC, the Federal Reserve, NCUA, OCC, and CFPB about their implementation of the Act's provisions on private student loan rehabilitation programs and the potential risks and effects for financial institutions and student loan borrowers.

Finally, we interviewed officials from the Department of Education and the Federal Trade Commission, which oversee the federal student loan

---

<sup>7</sup>Nonbanks are broadly defined as institutions other than banks that offer financial services. Loan or finance companies are common examples of nonbanks. Nonbank state lenders provide private student loans to residents of their states and out-of-state students attending in-state schools. These lenders are mission-driven entities focused on increasing college access and affordability in their states, among other things, and are funded through tax-advantaged bond funding.

<sup>8</sup>For purposes of this report, we defined credit providers to include any bank or nonbank entity that provides installment loans or revolving lines of credit to individual consumers.

---

rehabilitation program and credit reporting industry, respectively. We also interviewed representatives of four consumer reporting agencies (CRA); the two credit scoring firms that develop credit score models with nationwide coverage, Fair Isaac Corporation (FICO) and VantageScore; banking, credit reporting, and student loan lending and servicing industry groups; and consumer advocacy organizations. We determined that all of the data and data sources we used in this report and the analyses conducted by VantageScore were sufficiently reliable for reviewing the implementation and effects of private student loan rehabilitation programs. See appendix I for a more detailed discussion of our scope and methodology.

We conducted this performance audit from July 2018 to May 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

---

## Background

---

### Private Student Loan Market

Private student loans are not guaranteed by the federal government. Generally, private lenders underwrite the loans based on the borrower's credit history and ability to repay, and they often require a cosigner. Private student loans generally carry a market interest rate, which can be a variable rate that is higher than that of federal student loans. As of September 30, 2018, five banks held almost half of all private student loan balances. Other private student loan lenders include credit unions and nonbanks:

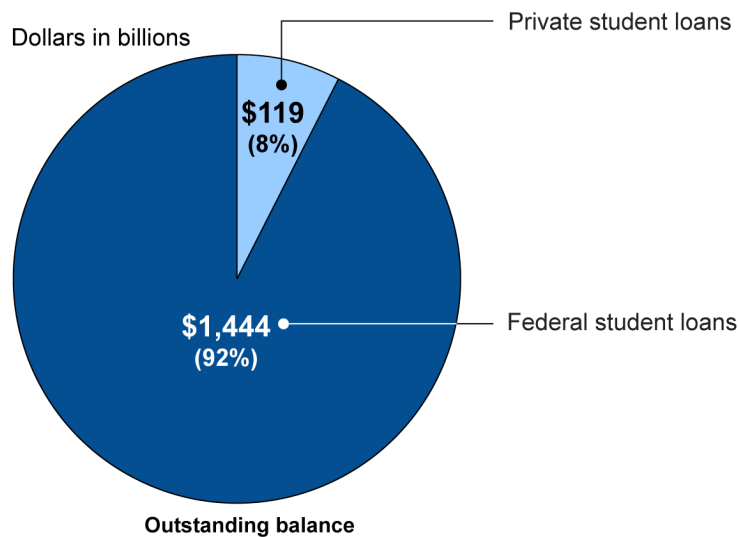
- Credit unions originate private student loans either directly or indirectly through a third party.
- Nonbanks include both for-profit nonbank lenders and nonbank state lenders. For-profit nonbank lenders can originate, service, refinance, and purchase loans. Nonbank state lenders promote affordable access to education by generally offering low, fixed-rate interest rates and low or no origination fees on student loans.

As of September 2018, outstanding private student loan balances made up about 8 percent of the \$1.56 trillion in total outstanding student loans



(see fig. 1). The volume of new private student loans originated has fluctuated, representing about 25 percent of all student loans originated in academic year 2007–2008, 7 percent in 2010–2011 (after the financial crisis), and 11 percent in 2017–2018.<sup>9</sup>

**Figure 1: Student Loan Market, September 2018**



Source: GAO analysis of MeasureOne data. | GAO-19-430

## Consumer Reporting for Private Student Loans

FCRA, the primary federal statute that governs consumer reporting, is designed to promote the accuracy, fairness, and privacy of information in the files of CRAs. FCRA, and its implementing regulation, Regulation V, govern the compilation, maintenance, furnishing, use, and disclosure of consumer report information for credit, insurance, employment, and other eligibility decisions made about consumers. The consumer reporting market includes the following entities:

- **CRAs** assemble or evaluate consumer credit information or other consumer information for the purpose of producing consumer reports (commonly known as credit reports). Equifax, Experian, and TransUnion are the three nationwide CRAs.

<sup>9</sup>Data for academic year 2017–2018 are preliminary. The College Board, *Trends in Student Aid 2018*, (New York, N.Y.: October 2018).

- 
- **Data furnishers** report information about consumers' financial behavior, such as repayment histories, to CRAs. Data furnishers include credit providers (such as private student loan lenders), utilities, and debt collection agencies.
  - **Credit report users** include banks, employers, and others that use credit reports to make decisions on an individual's eligibility for products and services such as credit, employment, housing, and insurance.

FCRA imposes duties on data furnishers with respect to the accuracy of the data they furnish.<sup>10</sup> Data furnishers are required to, among other things, refrain from providing CRAs with information they know or have reasonable cause to believe is inaccurate and develop reasonable written policies and procedures regarding the accuracy of the information they furnish. The Act entitles financial institutions that choose to offer a private student loan rehabilitation program that meets the Act's requirements a safe harbor from potential inaccurate information claims under FCRA related to the removal of the private student loan default from a credit report. To assist data furnishers in complying with their responsibilities under FCRA, the credit reporting industry has adopted a standard electronic data-reporting format called the Metro 2® Format. This format includes standards on how and what information furnishers should report to CRAs on private student loans.<sup>11</sup>

The information that private student loan lenders furnish to CRAs on their borrowers includes consumer identification; account number; date of last payment; account status, such as in deferment, current, or delinquent (including how many days past due); and, if appropriate, information indicating defaults.<sup>12</sup> An account becomes delinquent on the day after the

---

<sup>10</sup>Accuracy for the purposes of furnishers' obligations means that the information a furnisher provides to a CRA about an account or other relationship with the consumer correctly: (1) reflects the terms of and liability for the account or other relationship, (2) reflects the consumer's performance and other conduct with respect to the account or other relationship, and (3) identifies the appropriate consumer. 12 C.F.R. § 1022.41(a).

<sup>11</sup>As of March 2019, revisions to the credit reporting standards and guidelines for private student loans were planned, and the Consumer Data Industry Association hopes to complete the revisions in 2019.

<sup>12</sup>FCRA requires a person who furnishes information to a CRA regarding a delinquent account being placed for collection, charged to profit or loss, or subjected to any similar action to notify the CRA of the date of delinquency on the account not later than 90 days after furnishing the information. Some private student loan lenders use third-party servicers to service their student loan portfolio and provide credit reporting information to CRAs on their behalf.

---

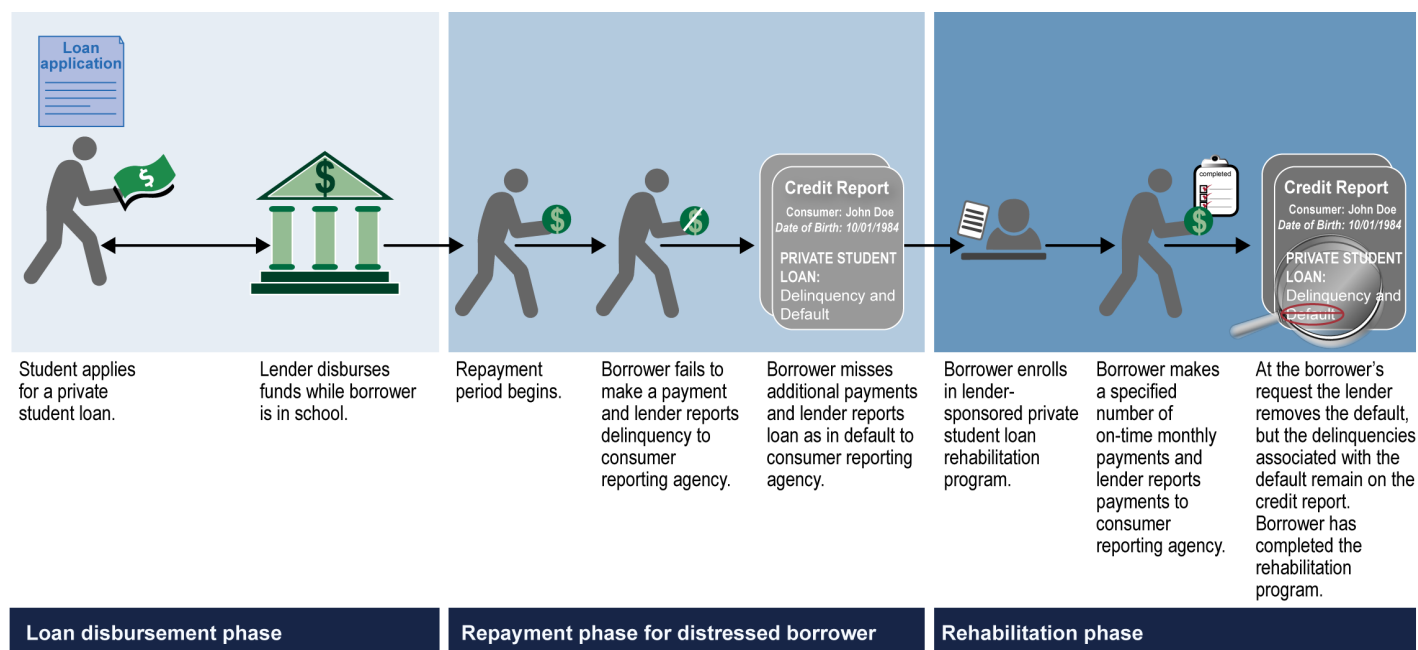
due date of a payment when the borrower fails to make a full payment. Private student loan lenders' policies and terms of loan contracts generally determine when a private student loan is in default. While private student loan lenders may differ in their definitions of what constitutes a default, federal banking regulator policy states that closed-end retail loans (which include private student loans) that become past due 120 cumulative days from the contractual due date should be classified as a loss and "charged off."<sup>13</sup> Private student loan lenders can indicate that a loan is in default and they do not anticipate being able to recover losses on it by reporting to CRAs one of a number of Metro 2® Format status codes. Participation in a private student loan rehabilitation program entitles borrowers who successfully complete the program to request that the indicator of a student loan default be removed from their credit report, but the delinquencies leading up to the default would remain on the credit report.<sup>14</sup> Figure 2 shows an example of credit reporting for a borrower who defaults on a private student loan and completes a rehabilitation program.

---

<sup>13</sup>See Federal Financial Institutions Examination Council, *Uniform Retail Credit Classification and Account Management Policy*, 64 Fed. Reg. 6655 (Feb. 10, 1999). Although NCUA did not adopt the Federal Financial Institutions Examination Council's (FFIEC) policy and issued its own loan charge-off guidance, it does refer federally insured credit unions to the FFIEC policy for best practices in developing their charge-off policies. Although the FFIEC policy does not define "default," throughout this report, we use the term to describe private student loans that have been charged off by banks and credit unions.

<sup>14</sup>When we refer to the successful completion of a private student loan rehabilitation program in this report, we are referring to borrowers who make the lender-specified number of consecutive, on-time monthly payments, request that the lender remove a reported default and have the private student loan default indicator removed from their credit report.

**Figure 2: Example of Credit Reporting for a Borrower in a Private Student Loan Rehabilitation Program**



Source: GAO. | GAO-19-430

## Credit Scoring

A credit score is a measure that credit providers use to predict financial behaviors and is typically computed using information from consumer credit reports. Credit scores can help predict the likelihood that a borrower may default on a loan, file an insurance claim, overdraw a bank account, or not pay a utility bill. FICO and VantageScore are the two firms that develop credit score models with nationwide coverage. FICO develops credit score models for distribution by each of the three nationwide CRAs, whereas VantageScore's models are developed across the three CRAs resulting in a single consistent algorithm to assess risk. FICO and VantageScore each have their own proprietary statistical credit score models that choose which consumer information to include in calculations and how to weigh that information. The three nationwide CRAs also develop credit score models derived from their own data.

There are different types of credit scores, including generic, industry-specific, and custom. Generic scores are based on a representative sample of all individuals in a CRA's records, and the information used to predict repayment is limited to the information in consumer credit records. Generic scores are designed to predict the likelihood of a borrower not

---

paying as agreed in the future on any type of credit obligation. Both FICO and VantageScore develop generic credit scores. FICO and VantageScore generic scores generally use a range from 300 to 850, with higher numbers representing lower credit risk. For example, VantageScore classifies borrowers in the following categories: subprime (those with a VantageScore of 300–600), near prime (601–660), prime (661–780), and super prime (781–850). A prime borrower is someone who is considered a low-risk borrower and likely to make loan payments on time and repay the loan in full, whereas a subprime borrower has a tarnished or limited credit history. FICO and VantageScore generic scores generally use similar elements in determining a borrower’s credit score, including a borrower’s payment history, the amounts owed on credit accounts, the length of credit history and types of credit, and the number of recently opened credit accounts and credit inquiries.

FICO has developed industry-specific scores for the mortgage, automobile finance, and credit card industries. These scores are designed to predict the likelihood of not paying as agreed in the future on these specific types of credit. In addition, credit providers sometimes use custom credit scores instead of, or in addition to, generic credit scores. Credit providers derive custom scores from credit reports and other information, such as account history, from the lender’s own portfolio. The scores can be developed internally by credit providers or with the assistance of external parties such as FICO or the three nationwide CRAs.

---

## Federal Oversight of Private Student Loans

CFPB has supervisory authority over certain private student loan lenders, including banks and credit unions with over \$10 billion in assets and all nonbanks, for compliance with Federal consumer financial laws.<sup>15</sup> CFPB also has supervisory authority over the largest CRAs and many of the entities that furnish information about consumers’ financial behavior to CRAs.<sup>16</sup> To assess compliance with Federal consumer financial laws,

---

<sup>15</sup>The Dodd-Frank Wall Street Reform and Consumer Protection Act defines Federal consumer financial laws to include the Consumer Financial Protection Act of 2010 (Title X of the Dodd-Frank Act) itself and a number of other consumer laws and the implementing regulations. 12 U.S.C. § 5481(14). For example, Federal consumer financial laws include the Equal Credit Opportunity Act, the Truth in Lending Act, the Fair Debt Collection Practices Act, and FCRA.

<sup>16</sup>CFPB also has supervisory authority over many of the entities that use the information for credit decisions.

---

CFPB conducts compliance examinations. According to CFPB, because of its mission and statutory requirement regarding nonbank supervision, it prioritizes its examinations by focusing on risks to consumers rather than risks to institutions. Given the large number, size, and complexity of the entities under its authority, CFPB prioritizes its examinations by focusing on individual product lines rather than all of an institution's products and services. CFPB also has enforcement authority under FCRA regarding certain banks, credit unions, and nonbanks and broad authority to promulgate rules to carry out the purposes of FCRA.<sup>17</sup>

The prudential regulators—FDIC, Federal Reserve, NCUA, and OCC—oversee all banks and most credit unions that offer private student loans. Their oversight includes routine safety and soundness examinations for all regulated entities. These examinations may include a review of operations, including policies, procedures, and practices, to ensure that private student loans are not posing a risk to the entities' safety and soundness. Prudential regulators also have supervisory authority for FCRA compliance for banks and certain credit unions with \$10 billion or less in assets.

---

<sup>17</sup>CFPB does not have rulemaking authority for FCRA Section 615(e), regarding red flag guidance and regulations, and Section 628, regarding disposal of records (codified as 15 U.S.C. § 1681m(e) and 15 U.S.C. § 1681w, respectively).

---

## No Banks Are Offering Rehabilitation Programs, and Authority Is Unclear for Other Lenders

---

### Banks and Credit Unions Are Not Offering Rehabilitation Programs, but Federal Banking Regulators Have Established Approval Processes

As of January 2019, none of the five banks with the largest private student loan portfolios that we contacted offered rehabilitation programs for defaulted private student loans. In addition, officials from the federal banking regulators told us that as of March 2019, no banks had submitted applications to have rehabilitation programs approved. Representatives from three of the five banks we contacted told us they had decided not to offer a rehabilitation program, and the other two had not yet made a final determination.

Representatives from these five banks provided several reasons they were not offering rehabilitation programs for private student loans.

- **Low delinquency and default rates.** All five banks' representatives stated that they had low default rates for private student loans, so the demand for these programs would be low for each bank.
- **Availability of predefault payment programs.** Representatives of all five banks said they already offer alternative payment programs, such as forbearance, to help prevent defaults, and two of them explicitly noted this as a reason that a rehabilitation program was unnecessary.
- **Operational uncertainties.** Most of the banks' representatives were not sure how they would operationalize rehabilitation programs. One bank's representatives said that they sell defaulted loans to debt purchasers and that it would be difficult to offer rehabilitation programs for loans that had been sold. Representatives of two other banks said that the banks' systems are not able to change the status of a loan once it has defaulted, so they were not certain how their systems would track rehabilitated loans. Another bank's representatives said that they did not know how rehabilitated loans would be included for accounting purposes in developing their financial statements.

- 
- **Reduced borrower incentives to avoid default.** Representatives from two banks said they believed the option to rehabilitate a defaulted loan might reduce borrowers' incentives to avoid default or to enter a repayment program before default.
  - **Risk of compliance violations.** One bank representative said a rehabilitation program could put the bank at risk for violations of unfair and deceptive acts and practices if borrowers misunderstood or misinterpreted how much the program would improve their credit scores. Representatives from this bank and another explained that they did not know how much the program would improve credit scores, limiting their ability to describe the program's benefit to borrowers.

Representatives from three of these banks and other organizations, however, noted that there could be advantages for banks to offer private student loan rehabilitation programs. Representatives from the banks said these programs could help banks recover some nonperforming debt, and one of these representatives stated the program could be marketed to borrowers as a benefit offered by the bank. A representative of a consumer advocacy group said a rehabilitation program could improve a bank's reputation by distinguishing the bank from peer institutions that do not offer rehabilitation for private student loans.

Because NCUA is not one of the federal banking regulators by statutory definition, officials said the Act does not require credit unions to seek approval from the agency before offering a rehabilitation program. NCUA officials told us examiners would likely review private student loan rehabilitation programs for the credit unions that choose to offer them as part of normal safety and soundness examinations. The two credit unions we spoke with—which are among the largest credit union providers of private student loans—told us they do not plan to offer rehabilitation programs. One of these credit unions cited reasons similar to those offered by banks, including a low private student loan default rate that suggested there would be a lack of demand for a rehabilitation program. The other credit union explained that it was worried about the effect of removing defaults from credit reports on its ability to make sound lending decisions. NCUA officials also noted that as of January 2019, they had not received any inquiries from credit unions about these programs.

OCC, FDIC, and the Federal Reserve have issued information regarding the availability of private student loan rehabilitation programs to their regulated entities, including how they would review applications. In doing so, the agencies informally coordinated to ensure that the statements



---

issued would contain similar information on rehabilitation programs. The three agencies' statements explained that their regulated entities must receive written approval to begin a program and that the relevant agency would provide feedback or notify them of its decision within 120 days of receiving a written application.<sup>18</sup> The agencies will review the proposed program to ensure that it requires borrowers to make a minimum number of consecutive, on-time, monthly payments that demonstrate renewed ability and willingness to repay the loan.<sup>19</sup>

---

### Uncertainty Exists about Nonbank Lenders' Authority and What Information Should Be Removed from a Credit Report

Uncertainty exists regarding two issues with private student loan rehabilitation programs. First, some nonbank private student loan lenders are not certain that they have the authority to implement these programs. Second, the Act does not explain what constitutes a "default" for the purposes of removing information from credit reports.

### Uncertainty about Nonbank State Lenders' Authorities

With regard to nonbank state lenders, uncertainty exists about their authority under FCRA to offer private student loan rehabilitation programs that include removing information from credit reports. As discussed previously, for financial institutions such as banks and credit unions, the Act provides an explicit safe harbor to request removal of a private student loan default from a borrower's credit report and remain in compliance with FCRA. However, the Act does not specify that for-profit nonbank lenders and nonbank state lenders have this same authority. Representatives of the five nonbank state lenders we spoke with had different interpretations of their authority to offer rehabilitation programs. At least two nonbank state lenders currently offer rehabilitation programs, and their representatives told us they believed they have the authority to do so. Another nonbank state lender told us its state has legislation

---

<sup>18</sup>See Office of the Comptroller of the Currency, *Statement on Programs for Rehabilitation of Private Education Loans (Section 602 Rehabilitation Programs)*, OCC Bulletin 2018-48 (Washington, D.C.: Dec. 27, 2018); Federal Deposit Insurance Corporation, *Voluntary Private Education Loan Rehabilitation Programs*, FDIC Financial Institution Letter FIL-5-2019 (Washington, D.C.: Feb. 4, 2019); and Board of Governors of the Federal Reserve System, *Voluntary Private Education Loan Rehabilitation Programs*, Federal Reserve Supervision and Regulation Letter SR19-2 (Washington, D.C.: Feb. 4, 2019).

<sup>19</sup>OCC issued its statement separately from FDIC and the Federal Reserve since it was concurrently updating examiner guidance and training materials. See Office of the Comptroller of the Currency, *Comptroller's Handbook: Student Lending*, Version 1.3 (Washington, D.C.: Dec. 27, 2018).

---

pending to implement such a program. In contrast, representatives of two other nonbank state lenders told us they were interested in offering a rehabilitation program but did not think that they had the authority to do so. In addition, representatives from a trade association that represents nonbank state lenders noted that confusion exists among some of their members and they are seeking a way to obtain explicit authority for nonbank lenders to offer rehabilitation programs for their private student loans. Two trade associations that represent nonbank state lenders also told us that some of their members would be interested in offering these programs if it was made explicit that they were allowed to do so.

CFPB officials told us the agency has not made any determination on whether it plans to clarify for nonbanks—including for-profit nonbank lenders and nonbank state lenders—if they have the authority under FCRA to have private student loan defaults removed from credit reports for borrowers who have completed a rehabilitation program. CFPB officials said that the agency does not approve or prevent its regulated entities from offering any type of program or product. Unlike for the federal banking regulators, the Act did not require CFPB to approve rehabilitation programs offered by the entities it regulates. However, CFPB does have general FCRA rulemaking authority. It generally also has FCRA enforcement and supervisory responsibilities over its regulated entities, which includes certain entities that originate private student loans. This authority allows the agency to provide written clarification of provisions or define terms as needed. As a result, CFPB could play a role in clarifying for nonbanks whether they are authorized under FCRA to offer private student loan rehabilitation programs.

Federal internal control standards state that management should externally communicate the necessary quality information to achieve the entity's objectives.<sup>20</sup> Without clarification from CFPB on nonbanks' authority to offer private student loan rehabilitation programs that allow them to delete information from the borrower's credit report, there will continue to be a lack of clarity on this issue among these entities. Providing such clarity could—depending on CFPB's interpretation—result in additional lenders offering rehabilitation programs that would allow more borrowers the opportunity to participate, or it could help ensure that

---

<sup>20</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

---

only those entities CFPB has interpreted as being eligible to offer programs are doing so.

## No Standard for What Constitutes a “Default”

Statutory changes made to FCRA by the Act do not explain what information on a consumer’s credit report constitutes a private student loan “default” that may be removed when a borrower successfully completes a rehabilitation program. According to the three nationwide CRAs and a credit reporting trade association, the term “default” is not used in credit reporting for private student loans. As discussed previously, private student loan lenders use one of a number of Metro 2® Format status codes to indicate that a loan is in default (i.e., they do not anticipate being able to recover losses on the loan). Representatives of the CRAs and a credit reporting trade association said that private student loan lenders will need to make their own interpretation of what information constitutes a default for the purposes of removing information from a credit report following successful completion of a private student loan rehabilitation program.

The statements issued by FDIC, the Federal Reserve, and OCC on rehabilitation programs do not explain what information constitutes a private student loan “default” that may be removed from borrowers’ credit reports upon successful completion of a rehabilitation program. Officials from FDIC, the Federal Reserve, and OCC explained that they do not have the authority to interpret what constitutes a private student loan default on credit reports because the responsibilities for interpreting FCRA fall under CFPB. CFPB officials told us they are monitoring the issue but have not yet determined if there is a need to address it.<sup>21</sup>

---

<sup>21</sup>In 2010, we reported similar concerns when the Department of the Treasury implemented its mortgage loan modification program in 2009. In particular, we noted inconsistencies in servicers’ criteria for determining imminent default. We recommended that the Department of the Treasury establish clear and specific criteria for determining whether a borrower is in imminent default to ensure greater consistency across servicers. At the time the report issued, the agency indicated that it did not plan to establish specific criteria for servicers to follow in determining whether a borrower was in imminent danger of default because it felt that servicers and investors were in the best position to make this determination. The Department of the Treasury stopped taking new requests for assistance or applications for any of its mortgage loan modification programs as of December 30, 2016. We have closed this recommendation as not implemented. GAO, *Troubled Asset Relief Program: Further Actions Needed to Fully and Equitably Implement Foreclosure Mitigation Programs*, [GAO-10-634](#) (Washington, D.C.: June 24, 2010).

---

Given CFPB's rulemaking authority for FCRA, it could clarify the term "default" for private student loan lenders. In doing so, CFPB could obtain insight from the prudential regulators and relevant industry groups on how private student loan lenders currently report private student loan defaults on credit reports and on how to develop a consistent standard for what information may be removed. According to federal internal control standards, management should externally communicate the necessary quality information to achieve objectives.<sup>22</sup> This can include obtaining quality information from external parties, such as other regulators and relevant industry groups. Without clarification from CFPB, there may be differences among private student loan lenders in what information they determine constitutes a "default" and may be removed from a credit report. Variations in lenders' interpretations could have different effects on borrowers' credit scores and credit records, resulting in different treatment of borrowers by credit providers. This could affect borrowers' access to credit or the terms of credit offered, such as interest rates or the size of down payments required on a variety of consumer loans. In addition, as mentioned previously, the credit reporting industry follows a standard reporting format to help ensure the most accurate credit reporting information possible. Without clarification on what information may be removed from credit reports following successful completion of rehabilitation programs, differences in lenders' interpretation could introduce inconsistencies in credit reporting data that may affect their accuracy.

---

<sup>22</sup>[GAO-14-704G](#).

---

---

## Private Student Loan Rehabilitation Programs Would Likely Pose Minimal Risks to Financial Institutions

---

### Programs Are Expected to Pose Little Safety and Soundness Risk for Banks and Credit Unions

Rehabilitation programs for private student loans are expected to pose minimal additional risk to banks' and credit unions' safety and soundness. Prudential regulators require that banks and credit unions underwrite student loans to mitigate risks and ensure sound lending practices, and OCC guidance specifies that underwriting practices should minimize the occurrence of defaults and the need for repayment assistance. Lenders generally use underwriting criteria based on borrowers' credit information to recognize and account for risks associated with private student loans.

According to officials from OCC, FDIC, and the Federal Reserve and representatives from the major bank and credit union private student loan lenders we spoke with, lenders participating in private student loan rehabilitation programs would face minimal additional risks for several reasons:

- **Loans are already classified as a loss.** Loans entering a rehabilitation program are likely to be 120 days past due and to have been charged off, and thus they would have already been classified as a loss by banks and credit unions. OCC officials told us a program to rehabilitate these loans would, therefore, pose no additional risks to the safety and soundness of institutions that offer them.
- **Default rates are low, and loans typically use cosigners.** Representatives from the five major banks and two credit unions told us that private student loans generally perform well and have low rates of delinquencies and defaults. Aggregate data on the majority of outstanding loan balances show that the default rate for private student loans was below 3 percent from the second quarter of 2014

---

through the third quarter of 2018.<sup>23</sup> Lenders also generally require borrowers of private student loans to have cosigners—someone who is liable to make payments on the loan should the student borrower default—which helps reduce the risk of the loan not being repaid. Since the academic year 2010–2011, the rate of undergraduate private student loan borrowers with cosigners has exceeded 90 percent.<sup>24</sup>

- **Private student loan portfolios are generally small.** Private student loans make up a small portion of the overall loan portfolios for most of the banks and credit unions we spoke with. For four of the five major banks with the largest portfolios of private student loans, these constituted between about 2 percent to 11 percent of their total loan portfolio in 2017. The fifth bank’s entire portfolio was education financing, with private student loans accounting for about 93 percent of its 2017 portfolio. For the two credit unions we contacted, private student loans constituted about 2 percent and 6 percent of their total assets in 2018.

Private student loan rehabilitation programs may create certain operational costs for banks or credit unions that offer them. However, no representatives of the five banks and two credit unions with whom we spoke were able to provide a cost estimate since none had yet designed or implemented such a program. Representatives from four banks and one credit union we spoke with said that potential costs to implement a rehabilitation program would be associated with information technology systems, designing and developing new systems to manage the program, increased human resource needs, additional communications with borrowers, credit reporting, compliance, monitoring, risk management, and any related legal fees. In addition, like any other type of consumer loan, banks and credit unions could face potential risks with private student loan rehabilitation programs, including operational, compliance, or

---

<sup>23</sup>The default rate data presented here represent annualized charge-off rates. MeasureOne defines the annualized charge-off rate as the amount of gross charge-offs for a quarter divided by the quarter-end balance in repayment loan status, multiplied by four (or annualized). MeasureOne, *The MeasureOne Private Student Loan Report* (Dec. 20, 2018). We compared private student loan default rates to the default rates of other types of consumer loans, including automobile loans, credit cards, and mortgages, and found that the estimated private student loan default rate is comparable to the default rates of these other types of consumer loans.

<sup>24</sup>MeasureOne, *The MeasureOne Private Student Loan Report* (Dec. 20, 2018).

---

reputational risks.<sup>25</sup> For example, a representative of one bank cited operational risks such as those that could stem from errors in credit reporting or inadequate collection practices for rehabilitated private student loans.

---

### Rehabilitation Programs Are Expected to Have Little Effect on Financial Institutions' Ability to Make Prudent Lending Decisions

One concern about removing information from credit reports—as authorized in connection with the Act's loan rehabilitation programs—is that it could degrade the quality of the credit information that credit providers use to assess the creditworthiness of potential borrowers. However, the removal of defaults from credit reports resulting from loan rehabilitation programs is unlikely to affect financial institutions' ability to make sound lending decisions, according to prudential regulator officials and representatives from three private student lenders and three other credit providers with whom we spoke. OCC and FDIC officials and representatives from two of these private student lenders noted that because rehabilitation programs leave the delinquencies leading up to the default on borrowers' credit reports, lenders would still be able to adequately assess borrower risk. In addition, representatives from one automobile lender and one mortgage lender said that over time, the methods they use to assess creditworthiness would be able to detect whether rehabilitated private student loans were affecting their ability to identify risk patterns in credit information and they could adjust the methods accordingly.

Representatives from the Federal Reserve provided three additional reasons why they expected that rehabilitation programs would have little effect on banks' and credit unions' lending decisions. First, under the statutory requirement for private student loan rehabilitation, removal of a default from a borrower's credit report can only occur once per loan. A single default removal would be unlikely to distort the accuracy of credit reporting in general. Second, they said that borrowers who have successfully completed a rehabilitation program by making consecutive on-time payments have demonstrated a proven repayment record, and therefore they likely represent a better credit risk. Finally, because participation in the private student loan rehabilitation program is expected

---

<sup>25</sup>Operational risk arises from inadequate or failed internal processes or systems, human errors or misconduct, or adverse external events. Compliance risk arises from violations of laws or regulations, or from nonconformance with prescribed practices, internal bank policies and procedures, or ethical standards. Reputational risk arises from negative public opinion.

---

to be low, its effect on the soundness of financial institutions' lending decisions is expected to be minimal.

---

---

## Private Student Loan Rehabilitation Programs Would Likely Result In Minimal Improvements in Borrowers' Access to Credit

---

### Effect of Rehabilitation Programs on Most Borrowers' Access to Credit Would Likely Be Small

The effects of private student loan rehabilitation programs on most borrowers' access to credit would likely be minimal. A simulation conducted by VantageScore found that removing a student loan default increased a borrower's credit score by 8 points, on average.<sup>26</sup> An 8 point rise in a borrower's credit score within VantageScore's range of 300 to 850 represents only a very small improvement to that borrower's creditworthiness. Therefore, most borrowers who successfully completed a private student loan rehabilitation program would likely see minimal improvement in their access to credit, particularly for credit where the decision-making is based solely on generic credit scores.

---

<sup>26</sup>In this section, we refer to the removal of student loan defaults generally, rather than private student loan defaults in particular, because it is not always possible to differentiate between federal and private student loans in credit reporting information, according to credit scoring firms with whom we spoke. The 95 percent confidence interval for this estimate is (7.57, 7.79) with a point estimate of 7.68. The estimate includes all borrowers with at least one student loan balance greater than \$0 and who also had at least one student loan delinquency or default in 2016–2018. Analysis of borrowers with the same characteristics in 2014–2016 and in 2015–2017 produced similar results. For purposes of this analysis, a default is defined as a loan that is 90 or more days past due (including charge-offs), and a delinquency is defined as a loan that is 30 or 60 days past due. The simulated borrower outcomes are meant to be illustrative. The results of the VantageScore analysis only apply to VantageScore 3.0 credit scores in 2016–2018 and may not be generalizable to effects on other VantageScore credit scores or FICO credit scores, or for different years. Additionally, because this is a simulation, it is unlikely that any one borrower's credit profile exactly matches the average profiles used in the simulations. See appendix I for additional information on this analysis.



---

### Factors Credit Providers Consider Prior to Lending

Credit providers assess a borrower's creditworthiness based on several factors, including the following:

- **Generic credit scores:** Credit providers can rely solely on generic credit scores, such as those developed by Fair Isaac Corporation and VantageScore Solutions, LLC, to make lending decisions. Credit providers generally do not provide credit to borrowers whose scores do not meet a minimum threshold.
- **Industry-specific credit scores:** Certain types of credit providers, such as mortgage lenders, automobile loan lenders, and credit card issuers, may use industry-specific credit scores rather than generic credit scores to make lending decisions. This is because these scores may help them better predict lending risks specific to their industry.
- **Internal credit reviews:** Credit providers can customize methods unique to their institution that review different aspects of borrowers' credit information, such as debt-to-income ratios, employment history, and borrowers' existing relationships with the institution. Credit providers may also develop custom credit scores that are tailored to their specific needs and include factors they have deemed important in predicting risks of nonpayment. Credit providers incorporate their own internal data in these scores as well as information contained in borrowers' credit reports.

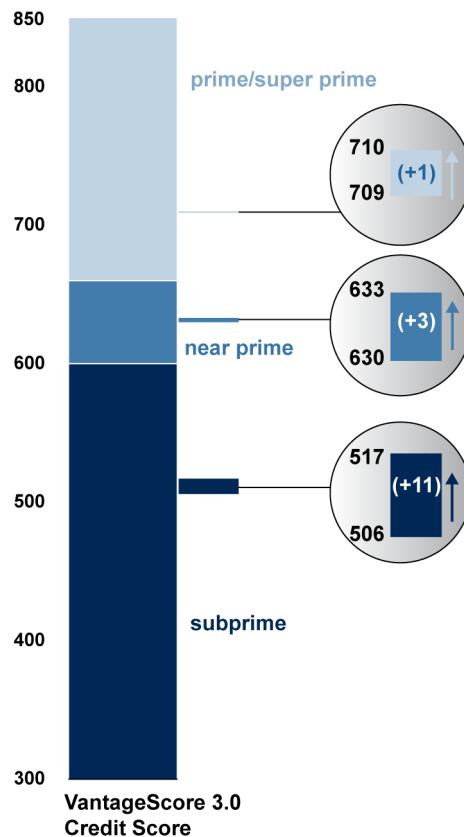
Source: GAO, based on credit provider interviews. | GAO-19-430

The effect of a rehabilitation program on credit scores will likely be somewhat greater for borrowers with lower credit scores, and smaller for borrowers with higher credit scores. For example, the VantageScore simulation suggests that borrowers in the subprime range (with scores of 300–600) could see score increases of 11 points, on average, while borrowers in the prime (661–780) and super prime (781–850) ranges could see increases of less than 1 point, on average (see fig. 3).<sup>27</sup> The effect of removing a default from a credit report varies among borrowers because a credit score is influenced by other information in a borrower's credit report, such as other outstanding derogatory credit markers, the length of time since the default, and other types of outstanding loans.

---

<sup>27</sup>The 95 percent confidence intervals for these estimates are (10.51, 10.83) and (0.85, 1.04) with point estimates of 10.67 and 0.94, respectively.

**Figure 3: Example of Simulated Effects on a Borrower's VantageScore 3.0 Credit Score of Removing a Student Loan Default**



Source: VantageScore Solutions, LLC. | GAO-19-430

Note: A VantageScore 3.0 credit score models a borrower's credit risk based on elements such as payment history and amounts owed on credit accounts. The scores calculated represent a continuum of credit risk from subprime (highest risk) to super prime (lowest risk).

Reasons that removing a student loan default may improve a borrower's credit score and access to credit only minimally include the following:

- **Delinquencies remain in the credit report.** A key reason that removing a student loan default has a small effect on a credit score, according to VantageScore officials, is that the delinquencies leading to that default remain in the credit report for borrowers who successfully complete rehabilitation programs. Adding a delinquency

---

in the simulation decreased a credit score by 61 points, on average.<sup>28</sup> Thus, the simulation suggests that the increase in a credit score from removing a student loan default is not as substantial as the decrease from adding the initial delinquency.

- **Credit scoring treats student loans differently.** Some credit score models place less emphasis on student loans than on other types of consumer loans in predicting the risk of nonpayment. One credit scoring firm and two CRAs we spoke with said that student loans have a lower weight than other types of consumer loans in their generic credit scoring algorithms. They explained that there are fewer student loans than other types of consumer loans in the sample they use to develop the score, and student debt has proved to be less important statistically at predicting credit risk in their models. Student loans also may have less weight in predicting defaults in industry-specific or custom models of scores. A representative of one credit scoring firm said the algorithm for an industry-specific credit score that predicts the risk of nonpayment on a credit card may place less emphasis on a student loan than the algorithm for a generic credit score that is meant to predict risk more broadly. Further, CRA officials we spoke with said that because their custom credit scoring models are specific to clients' needs, the models may not include student loans as a predictor of default at all, or they may place greater emphasis on student loans, depending on the clients' needs.
- **Borrowers in default typically already have poor credit.** Borrowers who complete a rehabilitation program have a high likelihood of having other derogatory credit items in their credit report, in addition to the student loan delinquencies that led to the default, according to a study conducted by a research organization, several CRAs, and one credit provider with whom we spoke.<sup>29</sup> The VantageScore simulation also showed that borrowers who had at least one student loan delinquency or default in their credit profile had an average of five derogatory credit items in their profile. Because student loan defaults and student loan delinquencies are both negative credit events that

---

<sup>28</sup>The 95 percent confidence interval for this estimate is (-60.81, -60.57) with a point estimate of -60.69. The estimate includes all borrowers with at least one student loan balance greater than \$0 in 2016–2018. In the VantageScore analysis that added a student loan delinquency to borrowers' credit profiles, borrowers had an average of 1.5 delinquencies or defaults previously existing in their credit profiles. For purposes of this analysis, a delinquency is defined as a loan that is 30 or 60 days past due.

<sup>29</sup>Urban Institute, *Underwater on Student Loan Debt: Understanding Consumer Credit and Student Loan Default* (Washington, D.C.: August 2018).

---

affect credit providers' credit assessment methods, the removal of one student loan default from a borrower's credit report likely will not make a large difference in how credit providers evaluate the borrower.

---

## Programs May Hold Additional Benefits as Well as Disadvantages for Borrowers

Consumer advocates and academic studies cited potential benefits of rehabilitation programs apart from their effect on credit scores and access to credit:

- Borrowers defaulting on private student loans issued by nonbank state lenders could have wage garnishments stopped after successfully completing a rehabilitation program.
- Rehabilitation would stop debt collection efforts against a private student loan borrower.
- Participating in a loan modification program for one loan may help borrowers better meet their other loan obligations, according to studies we reviewed.<sup>30</sup> For example, one study found that participation in mortgage modification programs was associated with lower delinquency rates on nonmortgage loans.<sup>31</sup>

However, programs may also have some disadvantages or pose challenges to borrowers, according to representatives from consumer advocacy groups and academic sources:

- A rehabilitation program may restart the statute of limitations on loan collections, according to representatives of consumer advocacy groups. Borrowers who redefault following entry into a rehabilitation program near the end of the statute of limitations on their debt could have collection efforts extended on these loans.<sup>32</sup>

---

<sup>30</sup>Paul S. Calem, Julapa Jagtiani, and William W. Lang, "Foreclosure Delay and Consumer Credit Performance," *Journal of Financial Services Research*, vol. 52 (2017): pp. 225–251; Lei Ding, "Borrower Credit Access and Credit Performance after Loan Modifications," *Empirical Economics*, vol. 52 (2017): pp. 977–1005.

<sup>31</sup>Ding, "Borrower Credit Access," pp. 977–1005. Private student loan rehabilitation programs may not be designed like the mortgage modification programs analyzed in this study, and thus may not have the same effects.

<sup>32</sup>According to OCC examiner guidance, a lawsuit is the main tool available to banks to pursue collection of private student loans in default. Depending on the state, a bank may need to consider the applicable statute of limitations to enforce private student loan court judgments. Some states allow banks to continuously renew the judgments to avoid being subjected to the statute of limitations. The statute runs until the time period has elapsed or an action is taken that "tolls" the statute (stops it from running), such as filing a lawsuit in court.

- 
- Programs may extend adverse credit reporting. Generally, negative credit information stays on consumer reports for 7 or 10 years; therefore, depending on when a borrower enters into a rehabilitation program, a payment on the loan might prolong the adverse credit reporting for that account.
  - The lack of income-driven repayment programs offered to borrowers in the private student loan market means that borrowers who complete rehabilitation programs may have a high likelihood of redefaulting on their loans.<sup>33</sup>
  - Because removing adverse information from credit reports does not change a borrower's underlying creditworthiness, improved credit scores and access to credit may cause borrowers to borrow too much relative to their ability and willingness to pay.<sup>34</sup> For example, one study found that for consumers who had filed for bankruptcy, their FICO scores and credit lines increased within the first year after the bankruptcy was removed from their credit report.<sup>35</sup> However, the study found the initial credit score increase had disappeared by about 18 months after the bankruptcy was removed and that debt and delinquency were higher than expected, increasing the probability of a future default.

---

## Conclusions

Private student loan rehabilitation programs can provide an opportunity for private student loan borrowers to help repair their credit reports. However, some nonbank state lenders have different interpretations of whether FCRA authorizes them to offer such programs. During our review, CFPB had not determined if it would clarify these uncertainties for nonbank state lenders and other nonbank private student loan lenders. Providing such clarity could—depending on CFPB's interpretation—result in additional lenders offering rehabilitation (allowing more borrowers the

---

<sup>33</sup>The Department of Education offers federal student loan borrowers income-driven repayment plans to repay loans. These plans set the monthly student loan payment at an amount that is intended to be affordable based on a borrower's income and family size.

<sup>34</sup>Will Dobbie, Paul Goldsmith-Pinkham, Neale Mahoney, and Jae Song, "Bad Credit, No Problem? Credit and Labor Market Consequences of Bad Credit Reports," Federal Reserve Bank of New York Staff Report No. 795 (2017); D.K. Musto, "What Happens When Information Leaves a Market? Evidence from Postbankruptcy Consumers," *Journal of Business*, vol. 77 (2004): p. 725–48.

<sup>35</sup>Musto, "What Happens When Information Leaves a Market?" p. 725–48. A private student loan default may not signal the same amount of financial distress that a bankruptcy signals, so removing information about a private student loan default from a borrower's credit report may have a smaller effect than removing a bankruptcy.

---

opportunity to participate), or help to ensure that only entities deemed eligible by CFPB to offer programs are doing so.

In addition, the Act does not explain what information on a consumer's credit report constitutes a private student loan "default" that may be removed following the successful completion of a private student loan rehabilitation program. Without clarification from CFPB—after consulting with the prudential regulators and relevant industry groups—on what information in a credit report constitutes a private student loan default that may be removed, lenders may be inconsistent in the credit report information they remove. As a result, variations in lenders' interpretations could have different effects on borrowers' credit scores and credit records, which could affect how they are treated by credit providers and could also result in inconsistencies that affect the accuracy of credit reporting data.

---

## Recommendations for Executive Action

We are making the following two recommendations to CFPB:

The Director of CFPB should provide written clarification to nonbank private student loan lenders on their authorities under FCRA to offer private student loan rehabilitation programs that include removing information from credit reports. (Recommendation 1)

The Director of CFPB, after consulting with the prudential regulators and relevant industry groups, should provide written clarification on what information in a consumer's credit report constitutes a private student loan reported "default" that may be removed after successful completion of a private student loan rehabilitation program. (Recommendation 2)

---

## Agency Comments and Our Evaluation

We provided a draft copy of this report to CFPB, the Department of Education, FDIC, the Federal Reserve, the Federal Trade Commission, NCUA, OCC, and the Department of the Treasury for review and comment. We also provided FICO and VantageScore excerpts of the draft report for review and comment. CFPB and NCUA provided written comments, which have been reproduced in appendixes II and III, respectively. FDIC, the Federal Trade Commission, OCC, and the Department of the Treasury provided technical comments on the draft report, which we have incorporated, as appropriate. The Department of Education and the Federal Reserve did not provide any comments on the draft of this report. FICO and VantageScore provided technical comments, which we have incorporated, as appropriate.

---

In its written response, CFPB stated that it does not plan to act on our first recommendation to provide written clarification to nonbank private student loan lenders on their authorities under FCRA to offer private student loan rehabilitation programs. CFPB stated—and we agree—that the Act does not regulate the authority of private student loan lenders that are not included in FCRA’s definition of a “financial institution,” nor direct financial institutions that are not supervised by a federal banking agency to seek CFPB’s approval concerning the terms and conditions of rehabilitation programs. However, CFPB’s written response does not discuss the authority of private student loan lenders that potentially fall outside FCRA’s definition of a financial institution to offer rehabilitation programs that include removing information from credit reports. As we discuss in the report, uncertainty exists among nonbank private student loan lenders regarding their authority to implement such programs. We maintain that although the Act does not require CFPB to act on this issue, CFPB could play a role in clarifying whether FCRA authorizes nonbanks to offer rehabilitation programs that enable the lender to obtain legal protection for removal of default information from a credit report. CFPB intervention is warranted given the lack of clarity in the private student lending industry and is consistent with CFPB’s supervisory authority over nonbank financial institutions and its FCRA enforcement and rulemaking authorities. We do not suggest that CFPB play a role in approving rehabilitation programs. As we note in the report, clarification of nonbanks’ authorities could result in additional lenders offering rehabilitation programs and providing more consistent opportunities for private student loan borrowers, or it could help ensure that only those entities authorized to offer programs are doing so.

With respect to our second recommendation on providing written clarification on what information in a consumer’s credit report constitutes a private student loan reported default that may be removed after successful completion of a private student loan rehabilitation program, CFPB’s letter states that such clarification is premature because of ongoing work by the Consumer Data Industry Association. The letter states that after that work is completed, CFPB will consult with the relevant regulators and other interested parties to determine if additional guidance or clarification is needed. As we stated in the report, we are aware of the work of the Consumer Data Industry Association to update the credit reporting guidelines for private student loans. We maintain that this work presents a good opportunity for CFPB to participate in these discussions and to work in conjunction with the industry and other relevant regulators to help alleviate any contradiction between what CFPB would determine in isolation from any determination made by

---

industry. Further, such participation would allow CFPB to weigh in on legal and policy issues from the start, potentially avoiding any need for future rulemaking. In addition, CFPB's involvement in this determination and issuance of clarification would help ensure more consistent treatment among borrowers participating in private student loan rehabilitation programs, as well as consistency in credit reporting information.

NCUA's written response stated that federal credit unions were authorized to offer rehabilitation programs for private student loan borrowers prior to the Act and that federal credit unions are not required to obtain review and approval from NCUA to offer such programs. The letter notes, however, that the Act requires federal credit unions that offer such programs to remove private student loan defaults from consumer credit reports if borrowers successfully complete a rehabilitation program. NCUA noted that even though removal of the default may result in a relatively small credit score increase, this can benefit credit union members. NCUA stated that it stands ready to assist CFPB in implementing the report's two recommendations.

---

We are sending copies of this report to CFPB, the Department of Education, FDIC, the Federal Reserve, the Federal Trade Commission, NCUA, OCC, the Department of the Treasury, the appropriate congressional committees and members, and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-8678 or [cackleya@gao.gov](mailto:cackleya@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix IV.



Alicia Puente Cackley  
Director,  
Financial Markets and Community Investment



---

*List of Congressional Committees*

The Honorable Mike Crapo  
Chairman  
The Honorable Sherrod Brown  
Ranking Member  
Committee on Banking, Housing, and Urban Affairs  
United States Senate

The Honorable Lamar Alexander  
Chairman  
The Honorable Patty Murray  
Ranking Member  
Committee on Health, Education, Labor & Pensions  
United States Senate

The Honorable Bobby Scott  
Chairman  
The Honorable Virginia Foxx  
Ranking Member  
Committee on Education & Labor  
House of Representatives

The Honorable Maxine Waters  
Chairwoman  
The Honorable Patrick McHenry  
Ranking Member  
Committee on Financial Services  
House of Representatives

---

# Appendix I: Objectives, Scope, and Methodology

---

Our objectives were to examine (1) the factors affecting financial institutions' participation in private student loan rehabilitation programs, (2) the risks that these programs may pose to financial institutions, and (3) the effects that these programs may have on student loan borrowers' access to future credit.

To examine the factors that affect financial institutions' participation in private student loan rehabilitation programs and how the federal banking regulators are implementing the Economic Growth, Regulatory Relief, and Consumer Protection Act's (the Act) provisions on private student loan rehabilitation programs, we reviewed the statements issued by the three regulators tasked with approving the loan rehabilitation programs of their regulated entities—the Board of Governors of the Federal Reserve System (Federal Reserve), Federal Deposit Insurance Corporation (FDIC), and Office of the Comptroller of the Currency (OCC)—as well as OCC's examiner guidance.<sup>1</sup> We also interviewed officials from these regulators about their time frames for issuing statements, what topics the statements cover, and how they coordinated in issuing the statements. We reviewed the legal authorities of the Consumer Financial Protection Bureau (CFPB) and National Credit Union Administration (NCUA)—which oversee nonbank private student loan lenders and most credit unions that issue private student loans, respectively—concerning private student loan rehabilitation programs and the legislative history of the Act's provisions on the programs. Finally, we interviewed officials from NCUA and CFPB about their authorities related to implementing the Act's provisions on private student loan rehabilitation programs and whether they planned to take any actions related to the provisions.

In addition, we interviewed representatives from a nongeneralizable sample of 15 private student loan lenders: the five largest bank lenders, two of the largest credit union lenders, and eight nonbank financial institutions (nonbank). The eight nonbank lenders included three for-profit nonbank lenders and five nonprofit state-affiliated lenders (nonbank state

---

<sup>1</sup>Federal Deposit Insurance Corporation, *Voluntary Private Education Loan Rehabilitation Programs*, FDIC Financial Institution Letter FIL-5-2019 (Washington, D.C.: Feb. 4, 2019); Board of Governors of the Federal Reserve System, *Voluntary Private Education Loan Rehabilitation Programs*, Federal Reserve Supervision and Regulation Letter SR19-2 (Washington, D.C.: Feb. 4, 2019); and Office of the Comptroller of the Currency, *Statement on Programs for Rehabilitation of Private Education Loans (Section 602 Rehabilitation Programs)*, OCC Bulletin 2018-48 (Washington, D.C.: Dec. 27, 2018) and *Comptroller's Handbook: Student Lending*, Version 1.3 (Washington, D.C.: Dec. 27, 2018).

lenders). We asked these lenders about their decisions to offer private student loan rehabilitation programs, risks and costs associated with the programs, and the effects that such programs could have on their lending decisions. We identified the five largest bank lenders by reviewing data from MeasureOne—a private data analytics company that studies the private student loan market—and discussions with officials from the Federal Reserve, FDIC, OCC, and CFPB.<sup>2</sup> We assessed the reliability of data from MeasureOne through discussions with representatives from the company on the methodology used to develop its estimates and its internal controls. We determined that this data source was sufficiently reliable for selecting a sample of private student lenders to interview about participation in rehabilitation programs. We reviewed these five banks' 2017 10-K reports (annual financial filings with the Securities and Exchange Commission) to verify the size of their student loan portfolios.<sup>3</sup>

We selected the two credit unions to interview by reviewing 2018 NCUA data on credit unions' portfolios to identify two credit unions that were among the largest credit union private student loan lenders. To select the for-profit nonbank lenders, we used suggestions from officials at CFPB, OCC, and the Department of Education, as well as reports from private sources that contained information on nonbank private student loan lenders.<sup>4</sup> We selected nonbank state lenders based on information that indicated they were operating or interested in offering rehabilitation programs. Sources of this information included the Education Finance Council's *2018–2019 NonProfit & State-Based Education Loan Handbook*, an interview with the Education Finance Council, and information received from a 2013 CFPB Request for Information

---

<sup>2</sup>MeasureOne, *The MeasureOne Private Student Loan Report* (San Francisco, Calif.: July 24, 2018).

<sup>3</sup>To ensure other banks did not have significant private student loan portfolios, we reviewed data from FDIC's Statistics on Depository Institutions for the fourth quarter of 2017 to identify banks with the largest volume of loans in the "other consumer loans" category, which includes student loans and other types of consumer loans such as medical expenses and purchases of household appliances, furniture, trailers, and boats. We reviewed the 2017 10-K filings or annual reports for the 12 banks with the largest portfolios of other consumer loans and determined that only two have private student loan portfolios. However, both of these banks' portfolios of private student loans were smaller than the five largest banks we identified.

<sup>4</sup>Eric Turner, *2017 U.S. Digital Lending Landscape* (S&P Global Market Intelligence, November 2017); Mike Brown, *Private Student Loans—8 Best Options for 2018* (LendEDU, Sept. 3, 2018); and U.S. News, *The Best Private Student Loans of 2018* (U.S. News & World Report, Aug. 14, 2018).

---

Regarding an Initiative to Promote Student Loan Affordability.<sup>5</sup> Because this sample is nongeneralizable, our results cannot be generalized to all private student loan lenders.

To examine the risks, if any, that private student loan rehabilitation programs pose to financial institutions, we reviewed bank and credit union regulator policies and guidance on private student lending. We also analyzed data on delinquency and default rates of private student loans. To do this, we reviewed industry data from MeasureOne and the 2017 10-K filings for the five banks whose representatives we interviewed. We assessed the reliability of MeasureOne's performance data through discussions with representatives from the company on the methodology it uses to develop these metrics and its internal controls. We determined that this data source was sufficiently reliable for assessing the performance of banks' portfolios of private student loans.

For these five banks, we also used the 10-K filings to estimate the volume of the portion of their portfolios that was composed of private student loans. We also compared private student loan default rates to default rates of other types of consumer loans, including mortgages, credit cards, and automobile loans. To do this, we used data from FDIC's Statistics on Depository Institutions database to analyze indicators of asset quality for mortgages, credit cards, and automobile loans from 2013 through 2017. We assessed the reliability of FDIC's Statistics on Depository Institutions database by reviewing related documentation and conducting testing for missing data, outliers, or any obvious errors. We determined that this data source was sufficiently reliable for assessing the performance and risk of banks' portfolios of private student loans and other types of consumer loans. We also interviewed officials from the Federal Reserve, FDIC, NCUA, and OCC about the types of costs and risks that could be associated with private student loan rehabilitation programs. In addition, we interviewed representatives of our nongeneralizable sample of 15 private student loan lenders about the potential risks and costs of offering rehabilitation programs.

To assess potential risks of private student loan rehabilitation programs for other types of financial institutions, we interviewed a nongeneralizable sample of seven credit providers about how these programs could affect

---

<sup>5</sup>Consumer Financial Protection Bureau, *Student Loan Affordability—Analysis of Public Input on Impact and Solutions* (Washington, D.C.: May 8, 2013).

their ability to make sound lending decisions.<sup>6</sup> We focused on financial institutions that offer mortgage loans, automobile loans, and credit cards. According to data from the 2016 Survey of Consumer Finances, these are the most common types of debt consumers hold. We selected a nongeneralizable sample of banks and nonbank financial institutions that provide these types of credit. We selected the bank credit providers using data from FDIC's Statistics on Depository Institutions by identifying the mortgage and automobile loan lenders and credit card issuers that were among the largest holders of assets in these lending categories as of the fourth quarter 2017.

To identify nonbank financial institution lenders, we reviewed an industry report to identify some of the larger nonbank mortgage lenders, and we reviewed a list prepared by CFPB of larger industry participants in the automobile finance market industry.<sup>7</sup> We judgmentally selected the final sample of these credit providers based on their size and, to the extent applicable, their federal regulator to obtain a diversity of opinions. We determined that industry reports, CFPB's list of larger industry participants, and 10-K filings were sufficiently reliable for selecting a sample of nonbank financial institutions to interview about risks posed by rehabilitation programs. Because this sample is nongeneralizable, our results cannot be generalized to all credit providers. We also interviewed representatives of four industry groups and two trade associations that work with these credit providers and student loan borrowers on the types of risks and costs that rehabilitation programs could create for lenders.

To examine the effects that private student loan rehabilitation programs may have on student loan borrowers' access to future credit, we conducted a literature search for studies that empirically analyzed the effects on credit scores and access to credit of adverse credit events, such as foreclosures or bankruptcies; loan modifications, broadly defined; and removal of accurate but adverse information from credit reports, such as a bankruptcy. We identified these studies through our initial background search, targeted searches of the EconLit database, and a search of the Federal Reserve Bank of New York Center for

---

<sup>6</sup>For purposes of this report, we defined credit providers to include any bank or nonbank entity that provides installment loans or revolving lines of credit to individual consumers.

<sup>7</sup>Inside Mortgage Finance, *The Top 50 Mortgage Lenders from Inside Mortgage Finance 1Q18* (Bethesda, Md.: Inside Mortgage Finance, 2018).

Microeconomic Data publications, and through bibliographies of studies we reviewed.

We also asked VantageScore Solutions, LLC (VantageScore)—a credit scoring firm—to conduct a quantitative analysis simulating the effect of adding a student loan delinquency to and removing a student loan default from a borrower’s credit profile on its VantageScore 3.0 credit score.<sup>8</sup> The analysis was conducted using a sample of VantageScore’s data that it obtained from the three nationwide CRAs and that represents actual credit profiles of borrowers. VantageScore analyzed data for borrowers with at least one outstanding student loan with a balance greater than \$0. Table 1 contains the results of the simulation and information on the number and characteristics of borrowers whose credit profiles were analyzed. The results of the simulation are specific to changes in the VantageScore 3.0 credit score. The simulated results represent averages for borrowers whose credit profiles were analyzed and are meant to be illustrative. Additionally, because this was a simulation, it is unlikely that any one borrower’s credit profile exactly matches the average profiles used in the simulations.

**Table 1: Results of VantageScore Solutions, LLC, Simulation of the Effect on a VantageScore 3.0 Credit Score of Adding a Student Loan Delinquency to and Removing a Student Loan Default from Borrowers’ Credit Profiles**

Student loan delinquency added – all student loan borrowers			
Cohorts	2014–2016	2015–2017	2016–2018
<i>Descriptive statistics</i>			
Number of borrowers analyzed	393,677	407,897	425,031
Average number of credit accounts/tradelines	7.6	7.7	8
Average length of credit history (years)	6.4	6.5	6.6
Average total credit line utilization (percent)	78.7	78.9	78.6
Average credit score	661	661	665
Average number of derogatory marks (delinquencies/defaults)	1.6	1.7	1.5
<i>Simulation analysis</i>			
Mean change, one student loan delinquency added during year	-60.20	-59.67	-60.69
95 percent confidence interval for above row	[-60.32, -60.08]	[-59.79, -59.55]	[-60.81, -60.57]

<sup>8</sup>VantageScore’s 3.0 credit score is the third iteration of its credit scoring algorithm. It considers payment history, percent of credit limit used, balances, age and type of credit, recent credit, and available credit when generating a borrower’s credit score.

Student loan default removed – all student loan borrowers			
Cohorts	2014–2016	2015–2017	2016–2018
<i>Descriptive statistics</i>			
Number of borrowers analyzed	108,152	113,027	113,791
Average number of credit accounts/tradelines	5.7	5.9	6.4
Average length of credit history (years)	6.1	6.3	6.4
Average total credit line utilization (percent)	90.2	91.3	91.1
Average credit score	547	552	561
Average number of derogatory marks (delinquencies/defaults)	5.9	6	5.7
<i>Simulation analysis</i>			
Mean change, one student loan default removed during year	6.14	8.51	7.68
95 percent confidence interval for above row	[6.03, 6.25]	[8.39, 8.63]	[7.57, 7.79]
Student loan default removed – subprime borrowers			
Cohorts	2014–2016	2015–2017	2016–2018
<i>Descriptive statistics</i>			
Number of borrowers analyzed	76,021	78,178	75,153
Average number of credit accounts/tradelines	4.6	4.8	5.2
Average length of credit history (years)	5.5	5.7	5.8
Average total credit line utilization (percent)	96.4	97.9	98.4
Average credit score	496	500	506
Average number of derogatory marks (delinquencies/defaults)	6.9	7.1	6.9
<i>Simulation analysis</i>			
Mean change, one student loan default removed during year	8.19	11.42	10.67
95 percent confidence interval for above row	[8.04, 8.34]	[11.26, 11.58]	[10.51, 10.83]
Student loan default removed – near prime borrowers			
Cohorts	2014–2016	2015–2017	2016–2018
<i>Descriptive statistics</i>			
Number of borrowers analyzed	16,665	18,159	20,097
Average number of credit accounts/tradelines	7.3	7.4	7.8
Average length of credit history (years)	7.1	7.1	7.1
Average total credit line utilization (percent)	80.8	82.4	83.2
Average credit score	630	630	630
Average number of derogatory marks (delinquencies/defaults)	4.2	4.3	4.2
<i>Simulation analysis</i>			

Student loan default removed – near prime borrowers			
Mean change, one student loan default removed during year	2.02	2.92	2.69
95 percent confidence interval for above row	[1.89, 2.16]	[2.76, 3.08]	[2.55, 2.83]
Student loan default removed – prime and super prime borrowers			
Cohorts	2014–2016	2015–2017	2016–2018
<i>Descriptive statistics</i>			
Number of borrowers analyzed	15,466	16,690	18,541
Average number of credit accounts/tradelines	9.1	9.2	9.3
Average length of credit history (years)	7.8	8	8.2
Average total credit line utilization (percent)	70	70	70.1
Average credit score	709	710	709
Average number of derogatory marks (delinquencies/defaults)	2.5	2.6	2.6
<i>Simulation analysis</i>			
Mean change, one student loan default removed during year	0.53	0.97	0.94
95 percent confidence interval for above row	[0.46, 0.60]	[0.87, 1.06]	[0.85, 1.04]

Source: VantageScore Solutions, LLC. | GAO-19-430

Notes: The following definitions are used for terms in the table above:

- Delinquency: accounts 30 or 60 days past due
- Default: accounts 90 or more days past due (including charge-offs)
- Active student loan: open student loan accounts with balance greater than \$0
- Average number of credit accounts/tradelines: includes all open accounts that have been reported in the past 6 months
- Average length of credit history (years): includes all accounts on the credit file
- Average total credit line utilization: includes all open accounts that have been reported within the past 6 months
- Average number of derogatory marks (delinquencies/defaults): includes active student loan accounts

There were fewer borrowers included in the default-removed simulations because to simulate the effects of removing a student loan default, borrowers had to have had at least one existing student loan delinquency or default.

The results of the VantageScore analysis only apply to VantageScore 3.0 credit scores in the 2014–2016, 2015–2017, and 2016–2018 cohorts of borrowers and may not be generalized to other VantageScore credit scores, to Fair Isaac Corporation (FICO) credit scores, or for different cohorts in different years. While we present only the results of the most recent cohort (2016–2018) in our report, VantageScore simulated the analysis across three cohorts to determine whether the results varied substantially over time. The results for all three cohorts were similar. Through reviewing documentation and conducting interviews, we



determined that the data used by VantageScore to conduct this analysis were sufficiently reliable for simulating the effects of derogatory credit marks on borrowers' credit scores. FICO declined our request to develop a similar analysis.

To examine how a rehabilitation program may affect borrowers' future access to credit, we interviewed officials from CFPB, the Department of Education, FDIC, the Federal Reserve, Federal Trade Commission, NCUA, OCC, and the Department of the Treasury. We also interviewed representatives of the four consumer reporting agencies that collect and report information on student loans (Equifax, Experian, Innovis, and TransUnion) and the two credit scoring firms that develop credit score models with nationwide coverage (FICO and VantageScore). We also interviewed representatives from the 15 private student loan lenders and seven credit providers described above, as well as banking, credit reporting, and student loan lending and servicing industry groups and consumer advocacy organizations.

We conducted this performance audit from July 2018 to May 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

# Appendix II: Comments from the Consumer Financial Protection Bureau

Bureau of Consumer Financial Protection  
1700 G Street NW  
Washington, D.C. 20552



May 6, 2019

Alicia Puente Cackley  
Director  
Financial Markets and Community Investment  
Government Accountability Office  
441 G Street, NW  
Washington, DC 20548

Dear Ms. Cackley,

Thank you for the opportunity to review and comment on the draft report by the Government Accountability Office (GAO), titled *Private Student Loans: Clarification from CFPB Could Help Ensure More Consistent Opportunities and Treatment for Borrowers* (19-430). The Bureau greatly appreciates GAO's work over the course of this engagement and believes the report provides the public important information with regard to private student loan rehabilitation programs.

The Bureau has made oversight of the consumer reporting market a top priority because consumer reporting, including reporting on student loans, plays a critical role in the overall consumer financial services market and has an enormous impact on consumers. The Bureau's work on student lending and consumer reporting includes both supervisory and enforcement actions. In supervision, the Bureau has focused on compliance with the Fair Credit Reporting Act (FCRA) and Regulation V. As a result of these efforts, certain student lenders and student loan servicers that provide information to consumer reporting agencies (CRAs) have enhanced their policies and procedures regarding the accuracy and integrity of information furnished to CRAs. These enhancements include improvements to recordkeeping, internal controls and

[consumerfinance.gov](http://consumerfinance.gov)

audits, third party oversight, and technology used to furnish information to CRAs.<sup>1</sup>

GAO makes two recommendations to the Bureau:

- The Director of the CFPB should provide written clarification to nonbank private student lenders on their authorities under FCRA to offer private student loan rehabilitation programs that include removing information from credit reports.
- The Director of the CFPB, after consulting with the prudential regulators and relevant industry groups, should provide written clarification on what information in a consumer's credit report constitutes a private student loan reported "default" that may be removed after successful completion of a private student loan rehabilitation program.

With respect to the first recommendation, section 602 of the Economic Growth, Regulatory Relief, and Consumer Protection Act<sup>2</sup> does not address or regulate the authority of those private student lenders that do not meet the definition of "financial institution" in subsection 603(t) of FCRA<sup>3</sup> to offer private student loan rehabilitation programs. Rather, it provides consumers with the right to request a financial institution to remove a reported default in circumstances in which the financial institution chooses to offer the type of private student loan rehabilitation program specified in section 623(a)(1)(E)(i) of FCRA. The decision whether to offer this type of student loan rehabilitation program must be made by financial institutions based on all applicable laws.

Where a financial institution chooses to offer the type of private student loan rehabilitation program specified in section 623(a)(1)(E)(i) of FCRA, it can obtain the legal protections offered by that provision, though a financial institution supervised by a Federal banking agency must seek written approval of the appropriate Federal banking agency concerning the terms and conditions of the program. There is no similar Congressional directive for a financial institution that is not supervised by a Federal banking agency to seek the Bureau's approval. Nor does section 623(a)(1)(E) indicate that any consequences would flow from any such Bureau approval

---

<sup>1</sup> <https://www.consumerfinance.gov/policy-compliance/guidance/supervisory-highlights>.

<sup>2</sup> Pub. L. No. 115-174, § 602, \_\_ Stat. \_\_ (2018), amending § 623(a)(1) of FCRA, 15 U.S.C. § 1681s-2(a)(1).

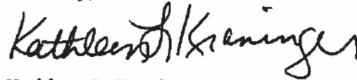
<sup>3</sup> 15 U.S.C. § 1681a(t).

or withholding of approval. Accordingly, the Bureau does not plan to act on this recommendation.

Regarding the second recommendation, such action is premature given the significant ongoing work in this area by the Consumer Data Industry Association, including ongoing work to address the issue of what information in a consumer's credit report may be removed pursuant to section 602. Upon conclusion of that ongoing work, the Bureau will consult with relevant regulators and other interested parties. If, as a result of that consultation and evaluation, it is determined that additional guidance or other clarification from the Bureau is required, the Bureau will consider issuing a clarification. However, the Bureau notes that, absent an FCRA or other legal requirement to include or exclude information, it is the role of CRAs to determine what to include in or exclude from consumer files and reports.

The Bureau looks forward to continuing to work with GAO on this important topic.

Sincerely,



Kathleen L. Kraninger  
Director

# Appendix III: Comments from the National Credit Union Administration



National Credit Union Administration  
Office of the Executive Director

April 23, 2019

SENT BY E-MAIL

Ms. Alicia Puente Cackley  
Director, Financial Markets and Community Investment Team  
U.S. Government Accountability Office  
441 G Street, NW  
Washington, DC 20548

Dear Director Cackley:

We reviewed the GAO report, *Private Student Loans – Clarification from CFPB Could Help Ensure More Consistent Opportunities and Treatment for Borrowers*, which discusses private student loan rehabilitation programs, including removing defaults from consumer credit reports.

Because credit unions are member-owned, non-profit entities, they generally offer safe student loan products and work with borrowers to stay current on those obligations. The NCUA encourages credit unions to assist borrowers in distress, while maintaining a safe and sound financial position.

Federal credit unions were authorized to offer rehabilitation programs for student loan borrowers prior to enactment of the 2018 Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA). As such, the EGRRCPA's amendment to the Fair Credit Reporting Act (FCRA) requiring regulator review and approval of rehabilitation programs does not apply to federal credit unions and the NCUA. However, the amendment requiring financial institutions to remove private student loan defaults from consumer credit reports does apply. Even though removal of default may result in a relatively small credit score increase, this can benefit credit union members.

While the two recommendations in the report are directed towards the CFPB, the NCUA stands ready to assist in the role noted in the report.

Sincerely,

A handwritten signature in blue ink that reads "Mark Treichel".

Mark Treichel  
Executive Director

1775 Duke Street – Alexandria, VA 22314-3428 – 703-518-6320

---

# Appendix IV: GAO Contact and Staff Acknowledgments

---

---

## GAO Contact

Alicia Puente Cackley at (202) 512-8678 or [cackleya@gao.gov](mailto:cackleya@gao.gov)

---

## Staff Acknowledgments

In addition to the contact named above, Jill Naamane (Assistant Director), Christine McGinty (Analyst-in-Charge), Jill Lacey, Courtney LaFountain, Jon D. Menaster, Tovah Rom, Jessica Sandler, Eric Schwab, and Aisha Shafi made key contributions to this report. Also contributing to this report were Melissa Emrey-Arras, Debra Prescott, and Jena Sinkfield.

---

## GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

---

## Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through GAO's website (<https://www.gao.gov>). Each weekday afternoon, GAO posts on its website newly released reports, testimony, and correspondence. To have GAO e-mail you a list of newly posted products, go to <https://www.gao.gov> and select "E-mail Updates."

---

## Order by Phone

The price of each GAO publication reflects GAO's actual cost of production and distribution and depends on the number of pages in the publication and whether the publication is printed in color or black and white. Pricing and ordering information is posted on GAO's website, <https://www.gao.gov/ordering.htm>.

Place orders by calling (202) 512-6000, toll free (866) 801-7077, or TDD (202) 512-2537.

Orders may be paid for using American Express, Discover Card, MasterCard, Visa, check, or money order. Call for additional information.

---

## Connect with GAO

Connect with GAO on [Facebook](#), [Flickr](#), [Twitter](#), and [YouTube](#).  
Subscribe to our [RSS Feeds](#) or [E-mail Updates](#). Listen to our [Podcasts](#).  
Visit GAO on the web at <https://www.gao.gov>.

---

## To Report Fraud, Waste, and Abuse in Federal Programs

Contact FraudNet:

Website: <https://www.gao.gov/fraudnet/fraudnet.htm>

Automated answering system: (800) 424-5454 or (202) 512-7700

---

## Congressional Relations

Orice Williams Brown, Managing Director, [WilliamsO@gao.gov](mailto:WilliamsO@gao.gov), (202) 512-4400,  
U.S. Government Accountability Office, 441 G Street NW, Room 7125,  
Washington, DC 20548

---

## Public Affairs

Chuck Young, Managing Director, [youngc1@gao.gov](mailto:youngc1@gao.gov), (202) 512-4800  
U.S. Government Accountability Office, 441 G Street NW, Room 7149  
Washington, DC 20548

---

## Strategic Planning and External Liaison

James-Christian Blockwood, Managing Director, [spel@gao.gov](mailto:spel@gao.gov), (202) 512-4707  
U.S. Government Accountability Office, 441 G Street NW, Room 7814,  
Washington, DC 20548



Please Print on Recycled Paper.